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MAR 15 1996

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

March 15, 1996

Mr. William F. Caton, Acting Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

**RE: Comments of Motorola Satellite Communications, Inc. and
Comm, Inc. in PP Docket 96-17**

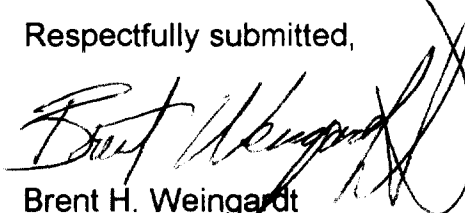
Dear Mr. Caton:

Enclosed please find for filing on behalf of Motorola Satellite Communications, Inc. and Comm, Inc. ("Motorola") an original and nine (9) copies of Motorola's Comments in the Commission's Notice of Inquiry on Improving Commission Processes .

Please date stamp and return our copy marked "Duplicate Original" to the messenger.

If there are any questions concerning this filing, please do not hesitate to contact me.

Respectfully submitted,



Brent H. Weingardt
Counsel for Motorola Satellite
Communications, Inc. and Comm, Inc.

Enclosures

Atty. General's Office
049

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of

Improving Commission Processes

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) PP Docket No. 96-17
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COMMENTS OF MOTOROLA

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COMM, Inc.**

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March 15, 1996

SUMMARY

Motorola Satellite Communications, Inc. and Comm, Inc., wholly-owned subsidiaries of Motorola, Inc. ("Motorola") are pleased to submit these suggestions in response to the Commission's Notice of Inquiry seeking ideas for improving the Commission's processes. Motorola fully supports the Commission's ongoing efforts to improve its internal procedures. These efforts are particularly critical at a time when the Commission is faced with the enormous burdens flowing from the passage of the Telecommunications Act of 1996, static or decreasing congressional appropriations and the steady growth of new telecommunications services and service providers.

Motorola has several suggestions in response to the International Bureau's proposals, but some of these suggestions may also have Commission-wide applicability. **First**, the Bureau and Commission should move quickly to adopt a final decision in its satellite streamlining proceeding.^{1/} The FCC's proposals, for the most part, received broad acceptance from the affected industries and can be implemented with little or no cost. In particular, the FCC should adopt its proposal to eliminate the requirement for prior FCC construction authority of space stations and the accompanying earth station facilities. The implementation of satellite systems is complex and time consuming. If applicants were permitted to proceed at their own risk, service to the public would be expedited by many years.

Second, the International Bureau should consider authorizing its staff end-to-end responsibility for the processing of applications. From the day an

^{1/} Streamlining the Commission's Rules and Regulations for Satellite Application and Licensing Procedures, Notice of Proposed Rulemaking, 10 FCC Rcd 10, 624 (1995).

application arrives at the Bureau, an individual or team should be responsible for that application until final disposition. The staff should be given authority to act on all but the most non-routine matters with minimal review by Branch or Division Chiefs. Motorola believes that this approach will increase productivity, promote individual initiative and improve employee morale.

Third, the Bureau should vigorously enforce the Commission's recent directive to strike frivolous pleadings or pleadings filed for purposes of delay. With this approach, the Bureau should find that it can implement its "grant stamp" approach for far more applications.

Fourth, the International Bureau should include more information on its Internet pages concerning the status of pending applications. Applicants should be able to track the progress of their filings either through the Internet or other publicly available data bases.

Fifth, the Commission should promote, but not require, electronic filing of applications, comments and petitions by adopting positive incentives for those who choose to do so. However, the Commission must have a plan that incorporates electronic filing into its current processes to ensure that this effort will lead to increased productivity.

Sixth, the Bureau should improve its on-site information resources by expanding the hours of the International Reference Room, expediting the availability of filings in the Reference Room, adding computers to track the progress of applications in automated data bases and increasing the number of copying machines available for public use.

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PP Docket No. 96-17

COMMENTS OF MOTOROLA

Motorola Satellite Communications, Inc. and Comm, Inc., wholly-owned subsidiaries of Motorola, Inc. ("Motorola"), hereby submit their initial comments in response to the Commission's Notice of Inquiry ("NOI"), released February 14, 1996 in the above-captioned proceeding.^{1/}

Motorola fully supports the Commission's ongoing efforts to improve its internal procedures. These efforts are particularly critical at a time when the Commission is faced with the enormous burdens flowing from the passage of the Telecommunications Act of 1996, static or decreasing congressional appropriations and the steady growth of new telecommunications services and service providers.

Motorola commends the Commission for inviting the public to participate in this effort. As the Commission recognizes, the public is in a very real sense the

^{1/} Motorola, Inc. is also filing comments today in this proceeding that focus on the Commission's equipment approval process.

FCC's "customer".^{2/} In particular, those regulated entities who must submit applications and/or information to the Commission are in a good position to suggest improvements as part of this process. Motorola urges the Commission to move beyond the mere solicitation of written comments by actively involving its customers in this effort. For example, the Commission might wish to establish an Advisory Committee as an informal sounding board for any changes it intends to implement. The Commission should also hold periodic public roundtables where each Bureau/Office's recommendations could be vetted by the affected industries. It may also wish to invite industry representatives to serve in voluntary focus groups to consider improvements to its processes. Any or all of these processes might serve to sharpen and focus streamlining ideas.^{3/}

Motorola's comments and suggestions for improvements are primarily directed to the Commission's International Bureau and the suggestions made by the Bureau in the NOI.^{4/} Its suggestions may also be of value to other organizations within the FCC.

Motorola's interest as a customer of the International Bureau are at least two-fold. First, Motorola Satellite Communications, Inc. recently received a license from the Bureau to construct, launch, and operate the IRIDIUM® System in the 1.6 GHz

^{2/} NOI at ¶ 1.

^{3/} Motorola believes that much of what the Commission intends to do can be accomplished through informal means, rather than a rulemaking, under the procedural rules exemption to the Administrative Procedures Act. 5 USC § 553(b)(A). Therefore, informal methods of gaining public input are particularly appropriate in this context.

^{4/} NOI at ¶¶ 41-51.

MSS/RDSS band on a bi-directional basis.^{5/} To bring the IRIDIUM System into operation, the Commission still must authorize several types of earth station facilities. In addition, Motorola, through its Comm, Inc. affiliate, recently submitted an application to provide broadband GSO FSS in the 28/18 GHz bands.^{6/}

I. THE COMMISSION SHOULD MOVE QUICKLY TO ADOPT ITS SATELLITE STREAMLINING PROPOSALS

The Commission should move rapidly to adopt the streamlined application and licensing procedures it has proposed for space stations and earth stations.^{7/} In its comments in that proceeding, Motorola and others generally supported the Commission's initiatives and the Commission can implement its streamlining proposals without initiating any additional proceedings.

In particular, Motorola renews its call for the Commission to adopt its proposal to eliminate the need for prior FCC authority to begin construction of space station facilities and to extend this right to the accompanying earth station complexes needed to operate these sophisticated satellite networks.^{8/} Permitting MSS, FSS and DBS proponents to start construction of their facilities at their own risk upon the filing of

^{5/} Motorola Satellite Communications, Order and Authorization, 10 FCC Rcd. 2268 (Int'l Bureau 1995).

^{6/} Comm Inc.'s GSO-FSS application was filed with the Commission on September 29, 1995.

^{7/} Streamlining the Commission's Rules and Regulations for Satellite Application and Licensing Procedures, Notice of Proposed Rulemaking, 10 FCC Rcd 10,624 (1995).

^{8/} See Motorola Comments of October 4, 1995 in IB Docket 95-117 at 2-3; Motorola Reply Comments of October 15, 1995 at 2-6.

an acceptable application will shave years from the time new satellite services are offered to the public. The Commission clearly has the authority under Section 319(d) of the Communications Act to waive the construction permit requirement for a class of stations and should exercise this discretion now.^{9/}

The Commission should also review all of its Part 25 satellite rules to ensure that they reflect the inherent technical differences between MSS, FSS, NGSO and GSO systems. It is essential that proponents of these evolutionary services have clear technical standards as they make investment and construction decisions that are costly and time consuming to change. The Commission could undertake this review, as Motorola has suggested, as part of its ongoing streamlining rulemaking^{10/} or initiate a fast track follow-on proceeding.

II. THE INTERNATIONAL BUREAU SHOULD AUTHORIZE ITS STAFF END-TO-END RESPONSIBILITY FOR APPLICATION PROCESSING

Motorola suggests that the International Bureau consider granting its staff end-to-end responsibility for the processing of applications. This responsibility should begin on the day an application is received at the Commission until the Bureau Chief adopts an action on delegated authority. Motorola believes that such decentralization of authority will improve employee morale by making individuals more responsible for the Bureau's ultimate "product" -- action on the thousands of applications filed annually.

^{9/} 47 U.S.C. § 319(d).

^{10/} See Motorola Comments at 9-11; Motorola Reply Comments at 12.

A. The Bureau Should Assign Individuals Or Interdisciplinary Teams To Applications

The private sector has learned that decentralizing authority and responsibility for a company's output leads to greater productivity and individual initiative. The Bureau should emulate this trend by designating individuals or teams with end-to-end responsibility for processing applications from the moment they arrive at the Commission.^{11/}

When an application is filed with the Commission, it should be "assigned" to the appropriate expert(s). When the application is put out on Public Notice, the name(s) of the responsible employees should be listed with each application.^{12/} From that point on, these staffers would be responsible for the disposition of the application. Pleadings, corrections and changes to the applications would be directed to the appropriate staff, not the Branch or Division Chiefs.

B. The Responsible Staff Should Be Given Substantial Autonomy In Making Decisions

The responsible staff team would be authorized to take any actions consistent with Bureau Policy, Commission Rules and existing law subject to minimal oversight. Actions that break with past precedent should be coordinated with the

^{11/} In this regard, Motorola would oppose the Commission's suggestion that the front-end processing of all applications be routed through a single FCC-wide location. **NOI** at ¶ 9. Motorola believes this process might lead to further delays as responsibility for any individual application would be outside the control of Bureau staff.

^{12/} Immediate designation of responsible employees would have the additional benefit of permitting applicants to know of and work with the designated staff to resolve any omissions or concerns with a submission before it becomes a "contested matter."

appropriate Division or Branch Chiefs, but the staff's recommendation should be given substantial weight.

As part of their goal of disposing of applications, the designated staff would have the authority to conduct informal settlement proceedings in contested matters. For example, in the current 28 GHz broadband satellite proceeding, informal discussions between the staff and various applicants have resulted in a resolution of several matters, including the preservation of U.S. access to international orbital slots until the Bureau and Commission have acted upon the underlying applications.

III. THE BUREAU SHOULD ENFORCE THE COMMISSION'S FRIVOLOUS PLEADING RULES AND CONSIDER STREAMLINED RULEMAKING AND PLEADING PROCESSES

The Commission recently announced that it would take a tough stance against frivolous pleadings or pleadings filed for purposes of delay.^{13/} Motorola urges the International Bureau to incorporate this policy into its day-to-day consideration of pleadings and aggressively exercise its authority to impose sanctions where appropriate. In particular, the Bureau should not hesitate to strike pleadings, in whole or part, when they reveal no effort to ascertain the underlying facts or promote issues that have been previously rejected by the Commission.^{14/} Through this aggressive approach, the Bureau may find more occasion to use its proposed "grant stamp"

^{13/} Public Notice: "COMMISSION TAKING TOUGH MEASURES AGAINST FRIVOLOUS PLEADINGS," FCC 96-42, (February 9, 1996).

^{14/} On this latter point, the Bureau should be diligent in striking arguments that repeat claims that have been made and disposed of in other Commission or court decisions.

process and avoid the need for written decisions on what otherwise would be routine actions.^{15/}

The Bureau has indicated its intention to review the rule making process and make recommendations for change.^{16/} Motorola would support such a review but, as the Bureau is clearly aware, any change should be considered on a Commission-wide basis. The current rule making process is derived from a congressional desire to protect the public from arbitrary and secretive actions by administrative agencies.^{17/} At the same time, the process has been rightly criticized for its slowness and failure to promote compromise.

The APA allows agencies substantial discretion in establishing the details of their rule making processes. However, the Commission should proceed cautiously with this effort. The Commission recently announced procedural changes it might invoke in order to expedite the scores of rule makings required to implement the Telecommunications Act of 1996.^{18/} These changes include shorter comment periods, strict limitations on extensions of time, page limits, joint filings, and limitations on the timing and scope of ex parte presentations. Motorola believes that the Commission's experience with these changes will form an excellent testbed for future consideration of methods to expedite the rule making process. The Commission should carefully

^{15/} NOI at ¶ 50.

^{16/} Id.

^{17/} See Administrative Procedure Act (APA), 47 U.S.C. § 553.

^{18/} Public Notice 61805, "COMMISSION ANNOUNCES STREAMLINED PROCEDURES FOR RULEMAKING PROCEEDINGS IMPLEMENTING TELECOMMUNICATIONS ACT OF 1996," FCC 96-81 (March 1, 1996).

monitor the impact of these changes before considering their use on a permanent basis.

IV. THE BUREAU SHOULD MAKE MORE INFORMATION AVAILABLE THROUGH THE INTERNET

The International Bureau has been at the forefront in using the Internet as a more efficient means of providing the public with almost immediate access to information. However, little or no information is available to permit an applicant to track the status of applications once they are put on Public Notice. Such information is crucial to applicants -- as the Commission's staff well knows from the hundreds of status inquiries it fields each week. Motorola suggests that the Bureau create or allow public read-only access to on-line databases. Included in such a database would be information on processing timeframes for each category of filings and, consistent with Motorola's previous recommendations, the name and phone number of the responsible staff person.

V. THE COMMISSION AND BUREAU SHOULD PROMOTE ELECTRONIC SUBMISSIONS

Motorola supports the Commission's efforts to promote the use of electronic filings of applications, comments and petitions. However, Motorola believes it is premature to require such electronic submissions. Rather, the Commission should use positive incentives to promote such actions. For example, the Commission might commit to faster turnaround times for applications that are electronically filed. The Commission might also consider a reduced Title 8 processing fee for applications

submitted in this way. Another incentive for anyone who files electronically might be "tracking access" of its submission via the Internet (or on-line) while the status of paper filings would not be available for off-site viewing.

These suggestions raise a fundamental issue. Electronic filing is not an end in itself. If the Commission does not have a plan to increase its productivity by this method of filing, it should not promote it. The staff must have ready access to electronic filings, the training to achieve such access and the incentive to do so. Without a well-conceived system, electronic filings will merely create a dual system of digital and paper submissions.

VI. THE BUREAU SHOULD IMPROVE ON-SITE INFORMATION RESOURCES

While every effort should be made to increase information available to customers over the Internet or other on-line services, the International Bureau should not neglect the needs of customers for on-site information. The Bureau should be commended for the operation of its International Reference Room. It has been Motorola's experience that this facility is one of the best managed within the Commission.

On occasion, however, we have experienced significant delays in documents being made available in the Reference Room. Clearly, applications that first go through Mellon Bank in Pittsburgh will not be available for several days after a filing deadline. Documents without fees -- pleadings, amendments, petitions to deny, etc. -- should be made available within a day or two. Motorola recognizes that any

delay in "hard copy" availability may be caused by mail flows between the Office of the Secretary and the Bureau. The Bureau may wish to investigate means of expediting this process. With electronic filing, this delay could be alleviated if the Bureau makes one or more computers available for viewing (and printing) these filings within the Reference Room.

Motorola also urges the Bureau to consider longer public hours of operation for the Reference Room. Currently, the room is open to the public from 10:00 a.m. until 3:30 p.m. It would greatly assist researchers if the facility was open to the public for at least seven (7) hours during normal FCC business hours.

Motorola understands that the Bureau may soon have computers available for on-site viewing of application data bases. While Internet access to these data bases is preferable, Motorola supports this additional capability as an important first step in giving customers meaningful access to filings.^{19/} Again, read-only access to the tracking data base would permit the public to follow progress on applications after the initial public notice announcing an application's acceptance. Such access should cut down repeated status inquiries.

Finally, Motorola urges the Bureau to consider adding copying machines in the Reference Room. Motorola has experienced frustrating delays in on-site research due to a broken machine. At other times, delays have been caused due to the number of users. The staff has limited use of the copying machine to a 10 minute maximum when others are waiting, but this is not an acceptable solution when copying

^{19/} Motorola would urge the Bureau to consider automating any current application tracking systems that deal with more than a handful of applications.

a large document -- such as a satellite application. The solution is to meet copying demand by providing more than one machine. If this is not possible under the existing private copy contract, the Bureau should make it a condition of the next contract. In the interim, the Bureau may wish to consider permitting the public to "check out" documents for copying at other machines.

VII. CONCLUSION

The Commission has opened another valuable dialogue with its customers. Motorola welcomes the opportunity to contribute to the Commission's efforts at improving its service to the public. Motorola looks forward to learning of other suggestions for improving these processes and will continue to assist the Commission in evaluating these alternatives for further reforms.

Respectfully submitted,

**MOTOROLA SATELLITE
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March 15, 1996.

CERTIFICATE OF SERVICE

I, Brent H. Weingardt, do hereby certify that a copy of the foregoing **Comments of Motorola** has been sent, via first class mail, postage prepaid (or as otherwise indicated), on this 15th day of March, 1996 to the following:

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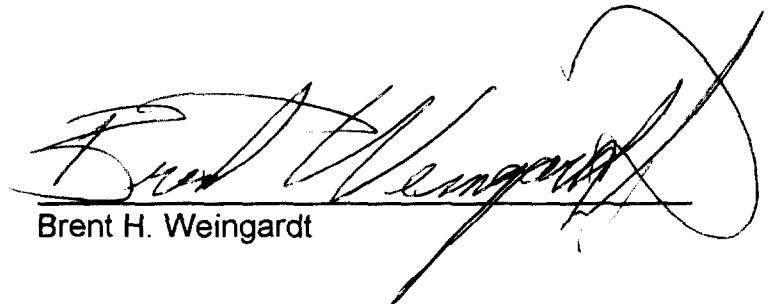
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